

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 03-00171-01-CR-W-ODS
)	
HESSAM S. GHANE,)	
)	
Defendant.)	

ORDER AND OPINION OVERRULING DEFENDANT'S OBJECTIONS, ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION, AND FINDING
DEFENDANT INCOMPETENT TO STAND TRIAL

On December 21, 2007, Defendant was committed to the Attorney General's custody pursuant to 18 U.S.C. § 4241(d)(1) for hospitalization and treatment to determine whether there was a substantial possibility Defendant would attain the capacity to stand trial. A hearing was held before the Honorable Robert E. Larsen, United States Magistrate Judge for this District, in September 2008. On October 9, Judge Larsen issued a Report and Recommendation ("Report") finding Defendant possesses a rational and factual understanding of the proceedings against him, but does not have a sufficient ability to consult with and assist his lawyers.

Defendant has filed a timely objection to the Report. The undersigned has reviewed the Record, including the transcripts of proceedings before Judge Larsen, prior orders issued in the case, the reports prepared by Dr. Lucking and Dr. Logan, and the written briefs. After this de novo review, the Court adopts the Report as the Order of the Court.

There is no need to expand on what Judge Larsen has said in his Report, as the Report is adopted in its entirety. The Court acknowledges the differing opinions of Dr. Lucking and Dr. Logan, and in weighing their opinions the Court accords more weight to Dr. Lucking because he has spent more time treating and evaluating Defendant and has had more contact with Defendant.

Defendant is returned to the Attorney General's custody for appropriate action as required by law.

IT IS SO ORDERED.

DATE: November 12, 2008

/s/ Ortrie D. Smith

ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT